

### **REMARKS/ARGUMENTS**

This Amendment is in response to the Office Action dated April 21, 2005. This Amendment is being provided within the three month period for response extending to July 21, 2005. The current status of the claims are summarized below.

5           Claims 1, 11, 22, 29, and 30 are currently amended.

          Claims 2, 12, and 26-28 are cancelled.

          Claims 1, 3-11, 13-25, and 29-31 are pending in the application after entry of the present Amendment.

10       **Rejections under 35 U.S.C. § 103**

          Claims 1, 3-7, 11, 13-17, and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Griffin (U.S. Patent No. 5,893,077) in view of McManis (U.S. Patent No. 5,692,047) and "Microsoft SQL Server in the Active Internet," Microsoft Corporation, 3-12-1996, pages 1-8 ("Microsoft" hereafter). These rejections are traversed.

15       With respect to claim 1, the Office has relied on Griffin to teach instantiating a live object in a runtime environment. The Office has also relied on Griffin to teach taking a snapshot of the live object by serializing a state of the live object.

          Griffin teaches creation of an event object in a network system, wherein the event object is defined to hold data relating to an event that has occurred in the network system.

20       Griffin further teaches that an event occurs whenever an operation such as a file download, login, or logoff occurs in the network system. Griffin teaches that the event object represents a record of the event that has occurred. Griffin does not teach or suggest that the event object includes any form of non-static field that is capable of including non-static information subject to change during instantiation of the event object. Furthermore,  
25       because Griffin teaches that the event object is supposed to be record of an event that has

occurred, inclusion of non-static fields or non-static information within the event object would not be appropriate considering the purpose of the event object to serve as a record of a past event occurrence.

To further distinguish the live object of the present invention, claim 1 has been amended to state that the live object instantiated in the runtime environment includes one or more non-static fields. Claim 1 further requires the one or more non-static fields to be capable of including non-static information that can change during instantiation of the live object in the runtime environment. Additionally, claim 1 requires taking a snapshot of the live object by serializing a state of the live object, wherein the live object includes one or more non-static fields as described above. Also, claim 1 further clarifies that state of the live object that is serialized includes information present in the non-static fields of the live object at the moment the snapshot is taken.

Griffin teaches serializing the event object to create a binary representation of the event object in a memory buffer. However, Griffin does not teach serializing a live object that includes one or more non-static fields capable of including non-static information, wherein the non-static information is subject to change during instantiation of the live object. Furthermore, if for no other reason that the fact that the event object of Griffin includes only static information, serialization of the event object as taught by Griffin does not suggest serialization of a live object as required by claim 1, wherein the live object includes non-static fields capable of including non-static information.

The Office has asserted that the teachings of McManis suggest association of a signature with the snapshot of the live object, as required by claim 1. McManis simply teaches association of a digital signature with a program to enable subsequent verification of the program as being provided from a trusted source. McManis does not include any teaching associated with a snapshot of a live object, particularly where the snapshot

represents of serialization of a state of the live object that includes one or more non-static fields as described above. Furthermore, McManis does not provide any suggestion to associate a signature with such a snapshot and maintain the association between the signature and the snapshot. Simply citing a reference, such as McManis, that teaches use  
5 of a digital signature for some non-relevant purpose is not sufficient to suggest association of a signature with the snapshot of the live object, as required by claim 1.

The signature features recited in claim 1 are not directed to the mere existence of digital signatures. Rather, claim 1 recites a specific feature of associating a signature with a snapshot of a live object and maintaining the signature-to-snapshot association, wherein  
10 the snapshot of the live object is defined as a serialization of a state of the live object, wherein the state of the live object is defined as including information present in non-static fields of the live object at the moment the snapshot is taken.

Based on the discussion above, Griffin fails to teach or suggest the following features of claim 1, in contrast to the Office's assertions:

15           instantiating a live object in a runtime environment, wherein said live object includes one or more non-static fields, each of said one or more non-static fields capable of including non-static information that can change during instantiation of said live object in said runtime environment; and  
20           taking a snapshot of said live object, wherein said taking said snapshot is performed by serializing a state of said live object, the state of said live object including information present in said non-static fields at a moment said snapshot is taken.

Based on the discussion above, McManis fails to teach or suggest the following  
25 features of claim 1, in contrast to the Office's assertions:

          associating a signature with said snapshot;  
          maintaining said association between said snapshot and said signature;  
          verifying said signature; and  
30           constructing a new object using said snapshot, when said signature is verified.

The Office has referred to Microsoft as providing a teaching that SQL servers support digital signature techniques. The Office has attempted to provide a line of

reasoning as to how the teachings of Microsoft provide motivation for combining the teachings of McManis with those of Griffin to arrive at the present invention as recited in claim 1. However, the Applicant submits that the above-mentioned line of reasoning as suggested by the office is not understandable. Furthermore, the Applicant fails to see how the support of digital signatures by SQL servers has any relevance to claim 1. The rationale for combining references requires a recognition either expressly or impliedly in the prior art or drawn from a convincing line of reasoning based on established scientific principles or legal precedent, that some advantage or expected beneficial result would have been produced by the combination of references. *In re Sernaker*, 702 F.2d 989, 994-95, 217 USPQ 1, 5-6 (Fed. Cir. 1983).

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). As described above, all features of claim 1 are not taught or suggested by the prior art.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. MPEP §2143.01 The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. MPEP §2143.01 However, the level of ordinary skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999). A statement that modifications of the prior art to meet the claimed invention would have been within the ordinary skill of the art at the time the claimed invention was made is not sufficient to establish a prima facie case of obviousness without some

objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). The Applicants submit that there is no suggestion of motivation, either explicitly or implicitly, in either Griffin, McManis, or Microsoft, to have combined their respective teachings to arrive at the present invention  
5 as recited in claim 1.

In view of the foregoing, the Applicant submits that claim 1 is patentable over the cited art of record. Furthermore, because each of claims 3-7 ultimately depends from claim 1, the Applicant submits that each of claims 3-7 is patentable for at least the same reasons provided for claim 1.

10 The Office has rejected independent claims 11 and 29 using the same basis of rejection as applied to claim 1. Therefore, with respect to commonly recited features present in each of claims 1, 11, and 29, the Applicants submit that same arguments given above with respect to claim 1 apply equally to claims 11 and 29. Therefore, in view of the foregoing, the Applicant submits that each of claims 11 and 29 is patentable over the  
15 cited art of record. Furthermore, because each of claims 13-17 ultimately depends from claim 11, the Applicant submits that each of claims 13-17 is patentable for at least the same reasons as claim 11.

Claims 8-10, 18-22, 30, and 31 were rejected under 35 U.S.C. §103(a) as being  
20 unpatentable over Griffin, McManis, and Microsoft as applied to claims 1 and 11, and further in view of Chaplin (U.S. Patent No. 5,315,655). These rejections are traversed.

The Office has rejected each of independent claims 22 and 30 based on the same combination of Griffin, McManis, and Microsoft as applied to reject similar features of claims 1 and 11. Therefore, with respect to commonly recited features, the Applicants  
25 arguments provided above for claim 1 are equally applicable to claims 22 and 30. Thus,

the Applicants submit that each of claims 22 and 30 are patentable over the cited art of record. Furthermore, because each of claims 8-10, 18-21, and 31, ultimately depend from one of claims 1, 11, and 30, the Applicant submits that each of claims 8-10, 18-21, and 31, is patentable for at least the same reasons provided for its respective independent  
5 claim.

Claims 23-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Griffin, McManis, and Microsoft as applied to claims 1-4, and further in view of Fischer (EPO 0 638 860 A2). These rejections are traversed.

10 Each of claims 23-25 ultimately depends from claim 22 and incorporates each feature of claim 22. Therefore, the Applicant submits that each of claims 23-25 is patentable for at least the same reasons provided for claim 22.

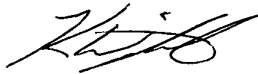
15 Claims 26-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Griffin, McManis, and Microsoft in view of Fischer as applied to claim 22, and further in view of Chaplin. These rejections are traversed.

The Office has provided a basis for rejecting claims 26-28. However, claims 26-28 were previously cancelled in the Amendment submitted June 21, 2004.

20

In view of the foregoing, the Applicant requests that the Office withdraw the rejections of claims 1, 3-11, 13-25, and 29-31. The Applicant submits that all of the pending claims are in condition for allowance. Therefore, a Notice of Allowance is requested. If the Examiner has any questions concerning the present Amendment, the Examiner is requested to contact the undersigned at (408) 774-6914. If any additional fees are due in connection with filing this Amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP043C). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,  
MARTINE PENILLA GENCARELLA, LLP



Kenneth D. Wright  
Reg. No. 53,795

Martine Penilla Gencarella, LLP  
710 Lakeway Drive, Suite 200  
Sunnyvale, California 94086  
Tel: (408) 749-6900  
Customer Number 32,291